

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRIPRADIP KUMAR CHOUBEY, JM**

**ITA No.1485/KOL/2025
(Assessment Year: 2013-14)**

Rabiul Islam Gain
Gopalpur, Sangrampur, Basirhat,
North 24 Parganas,
West Bengal-743286

(Appellant)

ITO, Ward 49(1),
Uttarapan Complex, Ultadanga,
Maniktala Civic Centre, Kolkata-
700054, West Bengal

(Respondent)

PAN No. ANBPG1674J

**ITA No. 1487/KOL/2025
(Assessment Year: 2013-14)**

Tapan Kumar Pal
Vill-Parnaihati, P.O. Sangrampur,
North 24 paraganas, West
Bengal743422

(Appellant)

DCIT, Circle 49(1)
Uttarapan Complex, Ultadanga,
Maniktala Civic Centre, Kolkata-
700054, West Bengal

(Respondent)

PAN No. BASPP1538D

Assessee by : Shri S.M. Surana, AR
Revenue by : S/Shri Sanat Kumar Raha
Sandip Sarkar, DRs

Date of hearing: 08.12.2025
Date of pronouncement: 23.12.2025

ORDER

Per Rajesh Kumar, AM:

These appeals are preferred by two different assesseees' against the orders of the National Faceless Appeal Centre, Delhi & Commissioner of Income-tax (Appeals)-15, Kolkata (hereinafter referred to as the "Ld. CIT(A)") dated 28.12.2023 & 30.03.2017 for the AY 2013-14.

ITA No. 1485/KOL/2025 (RABIUL ISLAM GAINI)

2. At the outset, we note that the appeals of the assessee are barred by limitation by 497 & 2022 days in ITA No. 1485 & 1487/KOL/2025 respectively. At the time of hearing the counsel of the assessee explained the reasons for delay in filing these appeals. The Ld. D.R on the other hand strongly opposed the condoning of delay as the reasons cited by the assessee's counsel were not adequate and sufficient. After hearing the rival contentions and perusing the materials available on record, we find that the delay is for bonafide and genuine reasons and , hence, we condone the delay and adjudicate the appeals.

3. At the time of hearing the Id. Counsel for the assessee pressed ground nos.2,3 and 4 which are as under:-

2. *For that the Id. CIT (A) erred in confirming the addition of alleged undisclosed cash deposit of ₹6,93,59,900/- on protective basis when no protective addition is allowed in reassessment proceedings.*

3. *For that the Id. CIT (A) erred in confirming the addition of Alleged undisclosed cash deposit of ₹6,93,59,900/- which cash belonged to Mr. Bark Biswas and was also admitted by him and so declared by him before the IT authorities in his balance sheet.*

4. *For that the Id. CIT (A) erred in confirming the addition of interest of ₹9,12,342/- earned on bank deposit on protective basis when the said interest also belonged to Mr. Bark Biswas."*

3.1. The issue raised in ground no.2 and 3 is against the confirmation of addition of ₹6,93,59,900/- on account of cash deposit into the bank account of the assessee which belong to Barik Biswas who admitted the same as belonging to him.

3.2. The facts in brief are that the assessee filed the return of income on 18.03.2014, declaring total income of ₹8,98,140/-. The return was processed u/s 143(1) of the Act on 23.07.2014. Later on, the AO received information that assessee had deposited cash into his bank

account and accordingly, the case of the assessee was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act on 13.03.2015. The assessee filed the return of income on 10.03.2018, declaring income of ₹9,86,090/-. Thereafter, the notice u/s 143(2) and 142(1) of the Act along with questionnaire were issued and duly replied by the assessee. The Id. AO noted that during the year the assessee has received salary from Biswas Enterprises, a proprietorship concern of Bark Biswas with whom the assessee was employed. The Id. AO noted that the assessee has two bank accounts nos. 77377 and 89029, with Axis bank Ltd., Bashirhat Branch, in which a sum of ₹4,41,59,900/- and ₹2,52,00,000/- were deposited. The summon u/s 131 of the Act was issued to the assessee on 09.09.2015, to appear personally on 15.09.2015. The assessee appeared and his statement was recorded. During the course of recording the statement, the assessee was asked about the source of cash deposited and he admitted that he had no knowledge about the cash transactions which were done by his employer Mr. Barik Biswas. The assessee further stated that the account was open at the direction of Mr. Barik Biswas and all the transactions were done by his employer only. Thereafter, the Id. AO referred to the affidavit filed by Shri Bark Biswas dated 26.08.2015, in which he admitted that all the cash transactions were done by him and the entire money belonged to him. However, the Id. AO added amount of cash of ₹6,93,59,900/- substantially in the hands of Barik Biswas and protectively in the hands of the assessee. The assessment was framed u/s 143(3)/ 147 of the Act dated 26.03.2016.

3.3. In the appellate proceedings, the Id. CIT (A) dismissed the appeal, when no one responded on the various dates of hearing.

3.4. After hearing the rival contentions and perusing the materials available on record, we find that in this case undisputedly assessee was an employee with Bark Enterprises owned by Mr. Bark Biswas drawing salary from the said firm. We note that the two bank accounts were opened with the Axis bank Limited of Bashirhat Branch in the name of the assessee and the cash was deposited into these accounts amounting to ₹4,41,59,900/- and ₹2,52,00,000/- respectively. There was accrual of interest of ₹8,54,906/ and 57,436/- respectively on these banks. During the course of assessment proceedings, the assessee submitted that he has no knowledge about the cash deposits into his bank accounts and submitted that all his transactions were made by his employer shri Bark Biswas. We further note from affidavit dated 26.08.2016 of Bark Biswas wherein he admitted that the transactions were done by him and the entire money belonged to him. The addition was made in the hands of the Barik Biswas, substantially and in the hands of the assessee protectively. In our opinion, when the Mr Barik Biswas has owned the cash deposits and disclosed the same in his return of income then same cannot be added protectively in the hands of the assessee. We find from the balance sheet of Biswas Enterprises, Proprietor Barik Biswas that these accounts were disclosed in the balance sheet and entire receipt was accounted for and Mr. Bark Biswas was assessed to tax vide order dated 30.03.2016, passed u/s 143(3)/ 147 of the Act, wherein the addition of ₹49,34,07,527/- was made. Considering these facts and circumstances, we are inclined to set aside the order of Id. CIT (A) and direct the Id. AO to delete the addition as there is no scope for adding the income on protective basis in the hands of the assessee when Mr. Barik Biswas has himself admitted and owned up the cash deposit.

3.5. The appeal of the assessee is allowed.

ITA No. 1487/KOL/2025 (TAPAN KUMAR PAL)

4. The issue raised in this appeal is similar to one as decided by us in ITA No. 1485/KOL/2025. Accordingly, our decision would, mutatis mutandis, apply to this appeal of assessee in ITA No. 1487/KOL/2025 as well. Hence, the appeal of assessee is allowed.
5. In the result, the both the appeals of the assesseees' are allowed.

Order pronounced in the open court on 23.12.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 23.12.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata